



International Market Insight **WEEE UPDATE**

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Summary

Where are WEEE? WEEE update as of June 6, 2005.

Disclaimer: Please note that this is not legal advice. To the best of our knowledge it is accurate as of the writing date but the Department of Commerce does not take any responsibility for actions companies may take based on the information contained herein.

Frequently Asked Questions

Where can I find a copy of the WEEE directive?

Directive 2002/96/EC on waste electrical and electronic equipment can be found on the European Commission's website:

http://europa.eu.int/comm/environment/waste/weee_index.htm

Are they EU guidance documents on how to comply with WEEE?

Yes, in May 2005, the European Commission published Frequently Asked Questions on WEEE and its sister directive ROHS:

http://europa.eu.int/comm/environment/waste/pdf/faq_weee.pdf

Note that these FAQs are meant as guidance documents. They are not legally binding. They are meant to help Member States interpret the directive as they transpose it into national law and implement it on their territory. The Commission cannot provide legal certainty since a binding interpretation of Community legislation is the exclusive competence of the European Court of Justice.

For companies, the FAQs are meant to help them comply with the requirements of the directive. However, they include mainly legal definitions and little practical information. The specific requirements companies face in order to comply with WEEE are in many cases still being worked out and it is not yet clear how member states will handle these issues (see below the role of the Technical Adaptation Committee – TAC).

Most importantly, companies operating in a specific member state must meet the requirements of the implementing member state's legislation, not the requirements of the Directive itself. The legal basis for WEEE is not the single market but rather environmental protection. Although there will be minimum required levels to achieve, basing the directive on environmental protection allows a member state to exceed the minimums as it sees fit, should it wish to do so. Therefore implementing legislation for WEEE will most likely vary from one EU country to the next, allowing each member state to interpret WEEE's scope and other requirements differently. Companies need to

ensure, therefore, that they are aware of each member state's WEEE national legislation wherever they intend to export or sell. Additionally, costs and procedures will differ from member state to member state.

Which countries have WEEE national legislation in place?

The WEEE directive had to be transposed into national law by 13 August 2004. In May 2005, 19 countries out of 25 had a national WEEE legislation in place. Companies should also be aware that implementation, particularly of producer responsibilities (according to the directive, as from 13 August 2005, producers will be responsible for financing the take-back and recycling of their old equipment and take-back systems must be in place in the Member States), has been delayed in several member states. However, Belgium, Sweden and the Netherlands are among the countries expected to implement on time.

The UK Government plans to propose regulations to transpose the WEEE Directive into law in summer 2005. Implementation of producer responsibility for household and non-household WEEE and take-back has been delayed until January 2006. Information on the way WEEE will be handled in the UK, in particular on data reporting and producer registration, can be found here:

http://www.dti.gov.uk/sustainability/weee/Planning_for_Implementation.pdf

Note that the UK government has produced its own guidance documents (see draft non-statutory guidance). They are not legally binding and cover only the UK but are a good indication of what could happen in other EU countries. The website also keeps up to date on all the latest developments across the EU.

<http://www.dti.gov.uk/sustainability/weee/index.htm>

Germany approved draft WEEE legislation transposing the WEEE Directive. It entered into force the day after its publication on March 23, 2005. Producer takeback and treatment responsibilities begin one year after publication, or March 2006. The registration process started in Germany just recently. Firms can register with the only German clearinghouse EAR at:

<http://www.stiftung-ear.de>

Ireland has not yet published its implementing regulations. It published draft regulations in April 2005, which would delay until 2008 the directive's collection, and recycling targets but producer responsibility would start on time.

For more information on national legislation transposing the WEEE directive, see http://www.dti.gov.uk/sustainability/weee/WEEE_Transposition_Report_April05.pdf

What is the TAC Process?

The Technical Adaptation Committee (TAC) is a committee of member state experts, chaired by the European Commission, which meets to decide on certain aspects of the WEEE and ROHS directives such as exemptions, maximum concentration values and monitoring compliance. Notes from the most recent TAC meeting are at the following link: http://www.dti.gov.uk/sustainability/weee/TAC_Unofficial_Note_April05.pdf

Which products are covered by the WEEE directive?

10 categories of products are covered:

1. Large household
2. Small household appliances
3. IT and Telecom equipment
4. Consumer equipment
5. Lighting equipment

6. Electrical and electronic tools (with the exception of large-scale stationary industrial tools)
7. Toys, leisure and sports equipment
8. Medical equipment
9. Monitoring and control instruments
10. Automatic dispensers.

This list of products, as outlined in the directive, is only indicative. Member States may have different interpretations when transposing the directive into national law, meaning that a product may be covered in one country and not in the other. The Commission guidelines (see paragraph on guidance documents) seek to clarify which products are covered. They do not include an exhaustive list of products but criteria for determining which products are covered.

For more details, see section 1.3 of the Commission guidelines:
http://europa.eu.int/comm/environment/waste/pdf/faq_wEEE.pdf

The British government has drafted similar non-binding guidelines for the UK market, in the form of a decision tree (page 49):

http://europa.eu.int/comm/environment/waste/pdf/faq_wEEE.pdf

Note that it is the responsibility of the manufacturer to determine whether its product falls or not under the directive.

What is the definition of 'put on the market'?

Put on the market is defined as 'the initial action of making a product available for the first time on the community market, with a view to distribution or use in the community' (see Commission guidelines, section 2.1).

Who is the Producer?

The term suggests the manufacturer but in the context of WEEE and RoHS, producer is defined in the Directive as "any person who irrespective of the selling techniques:

- Manufactures and sells EEE under his own brand
- Resells under his own brand, equipment produced by other suppliers or
- Imports or exports EEE on a professional basis into a member state.

The UK has stated that US exporters would not be responsible for WEEE obligations and that it would be up to the person putting the product on the market (i.e. the importer) to pay for the collection, treatment, etc. of WEEE. "Producer" and, therefore, WEEE obligations in the UK are expected to fall on the person actually putting the electrical and electronic equipment on the market. The Swedish State Secretary is saying the same thing.

The May 2005 Guidance Document from the European Commission did not contain a producer definition but the Commission has indicated it is working on one and they will release it soon.

What is Recovery?

Recovery includes recycling, burning with energy recovery and composting.

For more details on waste management definitions, see Directive 75/442 EEC on waste:
http://europa.eu.int/eur-lex/en/consleg/pdf/1975/en_1975L0442_do_001.pdf

Can the WEEE marking be put on the packaging?

The crossed-out wheel bin indicating separate collection of WEEE can be marked on the packaging if it is not possible to put the mark on the product. For more precise instructions on how to mark electrical and electronic equipment, please refer to the standard EN 50419. It can be bought from various standards organizations, contact CENELEC at www.cenelec.org for contacts. Note, the Commission has not adopted this standard but industry experts indicate the best way forward currently is to use the current version until a revision comes out.

Is there a list of WEEE registration centers?

Each member state is required to draw up a register of producers and to collect information on the quantities of WEEE put on their market, collected and recycled. The European Commission does not maintain a centralized list of national registers. Producers must register with a designated authority in each Member State but as of May 2005, not all the registrars are operational. The Commerce Department is working on a list of the registers and will circulate it soon.

In addition to registering, producers are responsible for the financing of collection, treatment and recycling of WEEE. To do that, they may register or join organizations which will handle the waste recovery such as the members of the WEEE Forum described below. Otherwise, they must submit their own waste management plan to the relevant national or regional authorities. To date, nearly all producers are choosing to join a collective scheme.

The WEEE Forum is a group of representatives of voluntary collective WEEE take-back systems, taking care of individual producers responsibility in Europe. It was founded in April 2002. The members are organizations executing operative, collective WEEE take-back systems, who are non-profit or non-profit oriented and acting on behalf of industry or industry sectors. At this date, nine collective systems are operative in six different countries. <http://www.weee-forum.org/index.htm> Their website includes links to national take-back systems.

Note that when a product is distributed in different Member states, registration is mandatory in each country.

Does B2B WEEE have to be marked, collected and recycled?

The costs of collecting, treating, and recycling WEEE from businesses will be the responsibility of producers, but they can conclude an agreement with the customer on another method of financing (see article 9 of the WEEE directive).

According to the Commission guidelines, all WEEE must be marked, both business and household products. However, some member states (Germany for example) will require the marking to appear on household products only.

For more information

The U.S. Commercial Service at the U.S. Mission to the European Union is located at Rue Zinner 13, Brussels B-1000, Belgium, and can be contacted via e-mail at: brussels.ec.office.box@mail.doc.gov or visit our website: www.buyusa.gov/europeanunion.

Various trade associations are also following WEEE planning and implementation carefully.

AEA (American Electronics Association) and EICTA (the European technology industry association) are particularly active and may have more detailed information and analysis

than the US Mission can provide. They are also lobbying EU institutions to get more clarification and information on many open questions.

www.aeanet.org

www.eicta.org

In addition the Industry Council for Electronic Equipment Recycling (ICER) has been following implementation for its members. You may wish to consult their website:

[http://www.icer.org.uk/ICER Update Spring 2005.pdf](http://www.icer.org.uk/ICER%20Update%20Spring%202005.pdf)

European Committee of Manufacturers of Domestic Equipment, CECED, represents the European Industry of household appliances. The association's website has FAQ's and other information on both WEEE and RoHS: www.ceced.org

The International Accounting Standards Board has issued draft interpretations of WEEE liabilities that also may be helpful:

http://www.iasb.org/uploaded_files/documents/8_39_ifric-d10.pdf

The Association of Cities and Regions for Recycling, the ACRR is an International Network of local and regional authorities throughout the European territory and beyond. The association aims to promote the exchange of information and experiences on municipal waste management, and particularly on the prevention at source, recycling and recovery.

ACCR's website contains a general description of selected national WEEE management schemes, currently Belgium, Denmark, Germany, the Netherlands, Norway, Sweden and Switzerland.

http://www.acrr.org/WEEE/weee_pays.htm

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